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Ryan L. Isenberg
Georgia Bar No. 384899
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, Georgia 30328
770-351-4400 (Voice)
770-828-0100 (Fax)
ryan@ihlaw.us

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT MILLER,

PLAINTIFF,

V.

CIVIL ACTION FILE

NO. 2:18-cv-02097-JAD-VCF

4INTERNET, LLC AND
JOHN DOES 1-10

DEFENDANTS.

DECLARATION OF RYAN ISENBERG

1. My name is Ryan Isenberg. I am over the age of 18, and competent, and have personal knowledge of the matters set forth below.
2. I am counsel of record for Defendant 4Internet, LLC. I have personal knowledge of the matters set forth herein.
3. I give this declaration in support of Plaintiff's Motion to Compel Compliance with Post Judgment Subpoena to Higbee & Associates.

- 1 4. On March 9, 2023, I emailed a subpoena to Higbee & Associates by sending it to both
2 Mathew Higbee and Ryan Carreon. A true and correct copy of that email and subpoena
3 are attached hereto as Exhibit “A.”
4
- 5 5. I was aware as of March 9, 2023, that Mr. Higbee was the registered agent for Higbee &
6 Associates and that the location of the registered office was 3110 W Cheyenne Ave, N
7 Las Vegas, NV, 89032. I was further aware that Mr. Higbee was the registered agent of
8 his firm in California and that he was not physically present at the Las Vegas office.
9
- 10 6. As referenced in the motion, in court filings outside of Nevada, and in his filings with the
11 Utah, Michigan, and Oregon Bars, he lists his California office as his address.
12
- 13 7. I was also aware that Mr. Higbee was not necessarily available at his California office as
14 Higbee & Associates was served with malpractice lawsuit that was delivered to the
15 receptionist. A copy of the proof of service for of the malpractice lawsuit is attached
16 hereto as Exhibit “B.”
17
- 18 8. During the course of this case all discovery was exchanged via email.
19
- 20 9. On March 13 and again on March 20, 2023, I communicated with Mr. Higbee relating to
21 scheduling of the deposition of the plaintiff to obtain post-judgment discovery. A true
22 and correct copy of these emails is attached hereto as Exhibit “C.” Despite having
23 represented that he would speak with his client and provide dates – he never did.
24
- 25 10. On March 28, 2023, at 10:45 AM (eastern), I emailed Mr. Higbee and Mr. Carreon to
26 serve a notice of post-judgment deposition of Mr. Miller and inquired what the intentions
27 were with respect to the subpoena. A true and correct copy of this email is attached
28 hereto as Exhibit “D.”

1 11. On March 28, 2023, shortly after 3:00 PM (eastern), Ryan Carreon, sought consent for an
2 extension of time to file an appellate brief, which was agreed to by the undersigned
3 within minutes of receipt.

4 12. Neither Mr. Higbee, nor Mr. Carreon, responded to the earlier March 28 email and have
5 never responded or communicated in any way about the subpoena to Higbee &
6 Associates.

7 13. Attached hereto as Exhibit “E” is an excerpt from the first and relevant page of a lawsuit
8 filed against Higbee & Associates in which another client, on whose behalf Mr. Higbee
9 had filed numerous lawsuits, alleged, consistent with Plaintiff’s deposition testimony,
10 that
11

12 32. Higbee generally requires all of his clients to grant a “Power of
13 Attorney” (“POA”) to Higbee. This POA grants Higbee full settlement
14 authority over that particular client’s cases, such that Higbee can
15 negotiate, manage, and settle all of a given client’s claims—within
16 parameters given by the client, such as a minimum acceptable settlement
value— without needing to repeatedly check in with that client.

17 14. Based on the information available to me, Higbee & Associates is likely to have
18 documents in its possession which would reveal whether it has, or will be coming into,
19 possession of money belonging to Plaintiff or whether there are claims that Plaintiff has
20 that may be subject to attachment under NRS § 21.320.

21 15. I declare under penalty of perjury under the laws of the United States of America that the
22 foregoing is true and correct.
23

24 Executed on this the 7th day of April, 2023.

25 /s/ Ryan Isenberg
26 Ryan Isenberg
27
28

Exhibit A

From: [Ryan Isenberg](#)
To: [Ryan Carreon](#)
Cc: mhigbee@higbeeassociates.com
Subject: RE: Miller v. 4Internet
Date: Thursday, March 9, 2023 1:22:00 PM
Attachments: [Subpoena to Higbee & Associates.pdf](#)
[Higbee Subpoena Exhibit.pdf](#)

The wrong document was sent with the last email. Here is the subpoena to Higbee & Associates.

My apologies.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

From: Ryan Isenberg
Sent: Thursday, March 9, 2023 1:20 PM
To: Ryan Carreon <rcarreon@higbeeassociates.com>
Cc: mhigbee@higbeeassociates.com
Subject: Miller v. 4Internet

Counsel

Please see attached subpoena that was served at Mr. Miller's residence on March 3 for a post-judgment deposition scheduled for March 17. I just received the return of service today. The subpoena is issued under the case number for the judgment registered in New York. Please let me know if you will be representing Mr. Miller in this proceeding and if you would like to find a mutually agreeable time and place for the deposition.

Also, please see attached post-judgment subpoena to Higbee & Associates for production of documents.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

UNITED STATES DISTRICT COURT

for the

District of Nevada



Robert Miller

Plaintiff

v.

4Internet, LLC

Defendant

Civil Action No. 2:18-cv-02097-JAD-VCF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

The Law Firm of Higbee & Associates

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE EXHIBIT "A"

Place: Troy Isaacson
9900 Covington Cross Dr., Suite 210-B
Las Vegas, NV 89144

Date and Time:

03/23/2023 9:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) 4Internet, LLC

, who issues or requests this subpoena, are:
Ryan Isenberg, 600 Embassy Row, Suite 150, Atlanta, GA 30328 (770) 351-4400 / ryan@ihlaw.us

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:18-cv-02097-JAD-VCF

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Exhibit B

Attorney or Party without Attorney: Patrick M. Maloney (SBN 197844) THE MALONEY FIRM, APC 2381 Rosecrans Avenue, Suite 405 El Segundo, CA 90245 Telephone No: (310) 540-1505 Attorney For: Plaintiff				For Court Use Only	
Ref. No. or File No.:					
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE					
Plaintiff: MICHAEL GRECCO; ET AL Defendant: HIGBEE & ASSOCIATES; ET AL					
PROOF OF SERVICE SUMMONS		Hearing Date:	Time:	Dept/Div:	Case Number: 30-2021-01214524-CU-PN-CJC

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the Summons; Complaint; Civil Case Cover Sheet; Notice of Hearing Case Management Conference
3.
 - a. Party served: HIGBEE & ASSOCIATES
 - b. Person served: MATHEW KIDMAN HIGBEE, Agent for Service of Process
4. Address where the party was served: 1504 Brookhollow Dr Suite 112, Santa Ana, CA 92705
5. I served the party:
 - b. by substituted service. On: Tue, Sep 07 2021 at: 03:09 PM I left the documents listed in item 2 with or in the presence of: Jasmine "Doe", Receptionist (Age: 20; Ethnicity: Hispanic; Gender: Female; Weight: 150; Height: 5'; Hair: Black)
 - (1) ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☒ (Declaration of Mailing) is attached.
 - (5) ☐ (Declaration of Diligence) attached stating actions taken first to attempt personal service.
6. The "Notice to the Person Served" (on the summons) was completed as follows:
 - a. ☐ as an individual defendant.
 - b. ☐ as the person sued under the fictitious name of (specify):
 - c. ☐ as occupant.
 - d. ☒ On behalf of (specify): HIGBEE & ASSOCIATES under the following Code of Civil Procedure section:

<input checked="" type="checkbox"/> 416.10 (corporation)	<input type="checkbox"/> 415.95 (business organization, form unknown)
<input type="checkbox"/> 416.20 (defunct corporation)	<input type="checkbox"/> 416.60 (minor)
<input type="checkbox"/> 416.30 (joint stock company/association)	<input type="checkbox"/> 416.70 (ward or conservatee)
<input type="checkbox"/> 416.40 (association or partnership)	<input type="checkbox"/> 416.90 (authorized person)
<input type="checkbox"/> 416.50 (public entity)	<input type="checkbox"/> 415.46 (occupant)
<input type="checkbox"/> other:	



Attorney or Party without Attorney: Patrick M. Maloney (SBN 197844) THE MALONEY FIRM, APC 2381 Rosecrans Avenue, Suite 405 El Segundo, CA 90245 Telephone No: (310) 540-1505 Attorney For: Plaintiff				For Court Use Only
Ref. No. or File No.:				
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE				
Plaintiff: MICHAEL GRECCO; ET AL Defendant: HIGBEE & ASSOCIATES; ET AL				
PROOF OF SERVICE SUMMONS	Hearing Date:	Time:	Dept/Div:	Case Number: 30-2021-01214524-CU-PN-CJC

Recoverable cost Per CCP 1033.5(a)(4)(B)

7. Person who served papers

- a. Name: James E. Voelkl, Jr.
- b. Address: **FIRST LEGAL**
1517 W. Beverly Blvd.
LOS ANGELES, CA 90026
- c. Telephone number: (213) 250-1111
- d. The fee for service was: \$106.93
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor
- (ii) Registration No: PSC 2928
- (iii) County: Orange County

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

09/08/2021

(Date)

James E. Voelkl, Jr.



Attorney or Party without Attorney: Patrick M. Maloney (SBN 197844) THE MALONEY FIRM, APC 2381 Rosecrans Avenue, Suite 405 El Segundo, CA 90245 Telephone No: (310) 540-1505 Attorney For: Plaintiff				For Court Use Only
Ref. No. or File No.:				
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE				
Plaintiff: MICHAEL GRECCO; ET AL Defendant: HIGBEE & ASSOCIATES; ET AL				
PROOF OF SERVICE By Mail	Hearing Date:	Time:	Dept/Div:	Case Number: 30-2021-01214524-CU-PN-CJC

- I am over the age of 18 and not a party to this action. I am employed in the county where the mailing occurred.
- I served copies of the Summons; Complaint; Civil Case Cover Sheet; Notice of Hearing Case Management Conference
- By placing a true copy of each document in the United States mail, in a sealed envelope by **First Class** mail with postage prepaid as follows:
 - Date of Mailing: Wed, Sep 8, 2021
 - Place of Mailing: LOS ANGELES, CA 90026
 - Addressed as follows: HIGBEE & ASSOCIATES
1504 Brookhollow Dr, Suite 112 Santa Ana, CA 92705
- I am readily familiar with the business practice for collection and processing of correspondence as deposited with the U.S. Postal Service on Wed, Sep 8, 2021 in the ordinary course of business.

Recoverable cost Per CCP 1033.5(a)(4)(B)

5. **Person Serving:**

- THOMAS TILCOCK
- FIRST LEGAL**
1517 W. Beverly Boulevard
LOS ANGELES, CA 90026
- (213) 250-1111

- The Fee for Service** was: \$106.93
- I am: Not a Registered California Process Server

- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

09/08/2021

(Date)



Thomas Tilcock



Judicial Council Form
Rule 2.150.(a)&(b) Rev January 1, 2007

**PROOF OF SERVICE
BY MAIL**

6067524
(4752781)

Exhibit C

From: [Mathew Higbee](#)
To: [Ryan Isenberg](#)
Subject: Re: Miller v. 4Internet
Date: Monday, March 20, 2023 7:23:05 PM

Yes, I am scheduled to speak with Mr. Miller tomorrow. I will have some dates for you by Wednesday.

Thank you.

-Mat

From: Ryan Isenberg <ryan@ihlaw.us>
Date: Monday, March 20, 2023 at 11:15 AM
To: Mathew Higbee <mhigbee@Higbee.law>, Ryan Carreon <rcarreon@Higbee.law>
Subject: RE: Miller v. 4Internet

Can you please let me know if you got any alternative dates from your client?

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

From: Ryan Isenberg <ryan@ihlaw.us>
Sent: Monday, March 13, 2023 8:09 PM
To: Mathew Higbee <mhigbee@Higbee.law>; Ryan Carreon <rcarreon@Higbee.law>
Subject: Re: Miller v. 4Internet

Thanks for letting me know. I'll follow up later in the week.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

(This email has been sent from my mobile phone).

From: Mathew Higbee <mhigbee@Higbee.law>
Sent: Monday, March 13, 2023 7:41:03 PM
To: Ryan Isenberg <ryan@ihlaw.us>; Ryan Carreon <rcarreon@Higbee.law>

Subject: Re: Miller v. 4Internet

Hi Ryan. Thank you for asking. Yes, we need to reschedule. The notice was a little short. The last I heard, he was planning on appearing.

I have a call scheduled with him tomorrow. I will get some dates from him and get them to you.

-Mat

Get [Outlook for iOS](#)

From: Ryan Isenberg <ryan@ihlaw.us>
Sent: Monday, March 13, 2023 7:38:18 PM
To: Ryan Carreon <rcarreon@Higbee.law>
Cc: Mathew Higbee <mhigbee@Higbee.law>
Subject: Re: Miller v. 4Internet

Can you please let me know if Mr. Miller will be appearing for the deposition, if it needs to be rescheduled, or if you are planning on filing for some relief?

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

(This email has been sent from my mobile phone).

From: Ryan Isenberg
Sent: Thursday, March 9, 2023 1:23:01 PM
To: Ryan Carreon <rcarreon@higbeeassociates.com>
Cc: mhigbee@higbeeassociates.com <mhigbee@higbeeassociates.com>
Subject: RE: Miller v. 4Internet

The wrong document was sent with the last email. Here is the subpoena to Higbee & Associates.

My apologies.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150

Atlanta, GA 30328
770-351-4400

From: Ryan Isenberg
Sent: Thursday, March 9, 2023 1:20 PM
To: Ryan Carreon <rcarreon@higbeeassociates.com>
Cc: mhigbee@higbeeassociates.com
Subject: Miller v. 4Internet

Counsel

Please see attached subpoena that was served at Mr. Miller's residence on March 3 for a post-judgment deposition scheduled for March 17. I just received the return of service today. The subpoena is issued under the case number for the judgment registered in New York. Please let me know if you will be representing Mr. Miller in this proceeding and if you would like to find a mutually agreeable time and place for the deposition.

Also, please see attached post-judgment subpoena to Higbee & Associates for production of documents.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

Exhibit D

From: [Ryan Isenberg](#)
To: ["Mathew Higbee"](#)
Cc: [Ryan Carreon](#)
Subject: RE: Miller v. 4Internet
Date: Tuesday, March 28, 2023 10:45:00 AM
Attachments: [Miller Notice of Deposition.pdf](#)
[3.9.23 Email to Higbee Assoc. with Subpoena.pdf](#)

Mat

Please see attached notice of deposition for April 20.

Also, you did not respond to the subpoena on Higbee & Associates that was sent to you on March 9. The documents were due to be delivered on March 23. Can you please advise as to what your intentions are with respect to the subpoena?

Thanks.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, Georgia 30328
770-351-4400 (Office)
678-203-3317 (Direct Dial)
770-828-0100 (Fax)

From: Ryan Isenberg
Sent: Sunday, March 26, 2023 5:56 PM
To: Mathew Higbee <mhighbee@Higbee.law>
Subject: RE: Miller v. 4Internet

Mat

Twice now you have told me you were going to speak to your client and would get back to me with dates. At this point, please let me know whether April 12, 13, 20, or 21 will work.

If I don't hear from you tomorrow afternoon I will just notice the previously subpoenaed deposition for one of the dates above.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, Georgia 30328
770-351-4400

From: Ryan Isenberg
Sent: Thursday, March 23, 2023 6:07 PM

To: Mathew Higbee <mhigbee@Higbee.law>

Subject: RE: Miller v. 4Internet

Mat

Just following up.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, Georgia 30328
770-351-4400 (Office)
678-203-3317 (Direct Dial)
770-828-0100 (Fax)

From: Mathew Higbee <mhigbee@Higbee.law>

Sent: Monday, March 20, 2023 7:23 PM

To: Ryan Isenberg <ryan@ihlaw.us>

Subject: Re: Miller v. 4Internet

Yes, I am scheduled to speak with Mr. Miller tomorrow. I will have some dates for you by Wednesday.

Thank you.

-Mat

From: Ryan Isenberg <ryan@ihlaw.us>

Date: Monday, March 20, 2023 at 11:15 AM

To: Mathew Higbee <mhigbee@Higbee.law>, Ryan Carreon <rcarreon@Higbee.law>

Subject: RE: Miller v. 4Internet

Can you please let me know if you got any alternative dates from your client?

Ryan L. Isenberg
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Cc: Mathew Higbee <mhigbee@Higbee.law>
Subject: Re: Miller v. 4Internet

Can you please let me know if Mr. Miller will be appearing for the deposition, if it needs to be rescheduled, or if you are planning on filing for some relief?

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

(This email has been sent from my mobile phone).

From: Ryan Isenberg

Sent: Thursday, March 9, 2023 1:23:01 PM

To: Ryan Carreon <rcarreon@higbeeassociates.com>

Cc: mhigbee@higbeeassociates.com <mhigbee@higbeeassociates.com>

Subject: RE: Miller v. 4Internet

The wrong document was sent with the last email. Here is the subpoena to Higbee & Associates.

My apologies.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, GA 30328
770-351-4400

From: Ryan Isenberg

Sent: Thursday, March 9, 2023 1:20 PM

To: Ryan Carreon <rcarreon@higbeeassociates.com>

Cc: mhigbee@higbeeassociates.com

Subject: Miller v. 4Internet

Counsel

Please see attached subpoena that was served at Mr. Miller's residence on March 3 for a post-judgment deposition scheduled for March 17. I just received the return of service today. The subpoena is issued under the case number for the judgment registered in New York. Please let me know if you will be representing Mr. Miller in this proceeding and if you would like to find a mutually agreeable time and place for the deposition.

Also, please see attached post-judgment subpoena to Higbee & Associates for production of documents.

Ryan L. Isenberg
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
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Exhibit E

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Attorneys for Plaintiffs MICHAEL GRECCO, and
MICHAEL GRECCO PRODUCTIONS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

Assigned for All Purposes
Judge Deborah Servino

MICHAEL GRECCO, and
MICHAEL GRECCO PRODUCTIONS, INC.
Plaintiff,

v.

HIGBEE & ASSOCIATES; MATHEW
HIGBEE, and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2021-01214524-CU-PN-CJC

COMPLAINT FOR DAMAGES FOR:

- 1) LEGAL MALPRACTICE;**
- 2) BREACH OF FIDUCIARY DUTIES; AND**
- 3) BREACH OF FIDUCIARY DUTIES**

For their Complaint for Damages, Plaintiffs MICHAEL GRECCO and MICHAEL GRECCO PRODUCTIONS, INC. (together “Grecco” or “PLAINTIFFS”) allege as follows:

1. Michael Grecco is a world-renowned and award-winning photographer. While he takes the photographs, he assigns all rights to photographs taken for commercial purposes, including the copyrights, to Michael Grecco Productions, Inc., which then sells licenses for those photographs. Michael Grecco primarily conducts his photography business through Michael Grecco Productions, Inc. Due to the quality, publicity, and fame of the subjects of Michael Grecco’s photographs, the works are often illegally used by third parties, without purchasing licensing rights from Grecco. As such, Grecco naturally sought legal representation to prosecute the frequent and numerous copyright infringers of his works.

2. Beginning in 2016, Defendants HIGBEE & ASSOCIATES and MATHEW HIGBEE

1 relation to the status and nature of Grecco's cases that Higbee was handling.

2
3 *Higbee's Negligent Representation of Grecco*

4 31. As an inevitable result of Higbee's business model of taking on more cases that the
5 firm could handle and Higbee becoming upset with Grecco after being confronted with Higbee's
6 unethical actions in relation to ID, Higbee allowed the statute of limitations on several of Grecco's
7 copyright enforcement cases to expire, damaging Grecco in the loss of those claims.

8 32. By way of background, Higbee generally requires all of his clients to grant a "Power
9 of Attorney" ("POA") to Higbee. This POA grants Higbee full settlement authority over that
10 particular client's cases, such that Higbee can negotiate, manage, and settle all of a given client's
11 claims—within parameters given by the client, such as a minimum acceptable settlement value—
12 without needing to repeatedly check in with that client.

13 33. In addition, Higbee maintains an online portal for the management of cases it is
14 handling on behalf of its clients. Clients share relevant documents with Higbee (e.g., screen shots of
15 websites using copyright protected images, copyright registrations demonstrating a client's rights to
16 the photograph, and any other documents Higbee may need to litigate the case), and Higbee then
17 uploads the documents to the online portal, which tracks the progress of any given case. Higbee's
18 clients have access to this online portal.

19 34. In combination, Higbee's online portals and POAs allow clients to employ a "set it
20 and forget it" approach to copyright infringement litigation. In other words, clients will upload
21 necessary documents and information to Higbee's portal such that Higbee can initiate collection
22 efforts, and then the client will be reliant on Higbee for information and updates as to the outcome
23 and status of those cases. In many instances, a client may not hear of a case after assigning it to
24 Higbee again until it resolves, one way or another, or Higbee rejects the file altogether, which the
25 client is informed of via email.

26 35. This foregoing description generally reflects Grecco's relationship with Higbee.
27 Grecco granted POAs to Higbee in combination with each of the contingency fee agreements, and
28 Grecco employed the "set it and forget it" mindset as to these copyright infringement cases, relying